

Introduced by Senator Cedillo

February 22, 2006

An act to amend Section 5550 of the Welfare and Institutions Code, relating to mental health.

LEGISLATIVE COUNSEL'S DIGEST

SB 1440, as introduced, Cedillo. Mental health treatment: exercise of rights: retaliation.

Existing law establishes certain rights of persons receiving voluntary or involuntarily mental health evaluation or treatment and prohibits retaliation or discrimination for the exercise of those rights. Violation of these provisions is subject to a civil penalty to be deposited into the county general fund. Existing law establishes a rebuttable presumption that any attempt to expel a patient, or any discriminatory treatment of a patient, within 120 days of the filing of a complaint by or on behalf of the patient, is retaliatory.

This bill would extend this period to 150 days.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 5550 of the Welfare and Institutions
- 2 Code is amended to read:
- 3 5550. (a) Any person participating in filing a complaint or
- 4 providing information pursuant to this chapter or participating in
- 5 a judicial proceeding resulting therefrom shall be presumed to be
- 6 acting in good faith and unless the presumption is rebutted shall
- 7 be immune from any liability, civil or criminal, and shall be

1 immune from any penalty, sanction, or restriction that otherwise
2 might be incurred or imposed.

3 (b) No person shall knowingly obstruct any county patients'
4 rights advocate in the performance of duties as described in this
5 chapter, including, but not limited to, access to clients or
6 potential clients, or to their records, whether financial, medical,
7 or otherwise, or to other information, materials, or records, or
8 otherwise violate the provisions of this chapter.

9 (c) No facility to which the provisions of Section 5325 are
10 applicable shall discriminate or retaliate in any manner against a
11 patient or employee on the basis that such patient or employee
12 has initiated or participated in any proceeding specified in this
13 chapter. Any attempt by a facility to expel a patient, or any
14 discriminatory treatment of a patient, who, or upon whose behalf,
15 a complaint has been submitted to a county patients' rights
16 advocate within ~~120~~ 150 days of the filing of the complaint shall
17 raise a rebuttable presumption that such action was taken by the
18 facility in retaliation for the filing of the complaint.

19 (d) No county patients' rights advocate shall knowingly
20 violate any provision of this chapter concerning client privacy
21 and the confidentiality of personally identifiable information.

22 (e) Any person or facility found in violation of subdivision (b)
23 or (d) shall pay a civil penalty, as determined by a court, of not
24 less than one hundred dollars (\$100), or more than one thousand
25 dollars (\$1,000) which shall be deposited in the county general
26 funds.